CHAPTER 13:

Interviewing, Report Writing, and Testifying in Court

Juvenile Probation Officer and Caseworker Self-Instructional Manual

This chapter outlines the essence of the probation officer's role. The youth and families coming into court typically have little time with the judge and/or referee. It is the probation officer/caseworker with whom they will have the greatest amount of interaction. It is, then, the probation officer/caseworker who is likely to have the most impact on the youth and their family. Establishing, maintaining, and enhancing competent skills are at the core of the function you provide to the court, the individual and the community.

INTERVIEWING

Before the court determines what should be done with adjudicated delinquents, a juvenile probation officer is assigned to investigate the case and make recommendations. Part of that investigation has to do with the interviewing process. Interviewing a family and a juvenile may to some people be awkward. That initial contact with individuals who do not know you and who you know very little about, often results in, if not prepared, awkward questions and surprising answers. It is best to conduct the initial interview with the juvenile and his family in your office if at all possible. The interview that is conducted in the office takes away the external distractions of the juvenile's home (the television set, siblings, barking dog, etc.) Many workers feel that conducting that initial interview in the office or court setting also presents a formal beginning to the legal process and sets the tone for the juvenile's probation.



Interviewing continued

Usually the probation officer has an outline or a written list of questions which needs to be answered and needs to be included in the initial Report of Investigation. Many courts require that face sheets, which list demographic information about the family, be prepared at the time of the investigation. Courts also require that the appropriate releases of information be signed at this time. These releases of information allow the probation officer to interview and/or obtain relevant information from agencies that have had dealings with the minor. Some of these agencies include schools and counseling agencies. Special education records and immunization records may also be examined.

It is at this initial interview when a great deal of information is exchanged but at the same time, it will be a time when the parents and the juvenile will form initial impressions of the juvenile probation officer. When interviewing a juvenile and his parents, attempt to ask questions which cannot be answered with just one word. Try to ask questions which will produce responses that the juvenile can then "piggy-back" on and develop into the next question. As the comfort level between the juvenile, parents, and the probation officer increases, the information that is given and received quite often is greater and more important than information that would be received from very strict and controlled interviewing. If it appears that one parent seems to be dominating the interview and providing most of the information, it may be necessary to interview the parents separate from the juvenile or in some cases the parents separate from each other.



Interviewing continued

At no time during the interview process should promises be made in regards to the outcome of probation or of orders that might be created by the court. It is important to explain to the juvenile and his/her parents that information gleaned from the interview process will go into a report that the judge will review in making his or her determination in regards to probation. Parents who feel that certain information is confidential should be told that lack of cooperation would be so noted in your report as well as their cooperation. All information taken in should be weighed before it is included in a Report of Investigation.

If the initial interview is conducted in the juvenile probation officer's office, then subsequent interviews prior to the Dispositional Hearing may occur in the family's own home. Contacts can also be made with the juvenile in his or her school. Unless the family is known to the court via another sibling, the information gathered through the interview process will be the judge's only basis from which to make probationary orders.



ASSESSMENT

During the interview the probation officer should be making an assessment of the juvenile and his/her family. In order to do so, a number of factors must be considered:

- 1.) Offense;
- 2.) History;
- 3.) Family;
- 4.) Risk to community; and
- 5.) Risk to self.

The probation officer should ask a number of questions in order to ascertain this information. However, the probation officer should not make any value judgments based on the answers. It is not the job of the probation officer to impart his/her values upon the family. The probation officer must be aware that despite the circumstances it is important to maintain a working relationship with the client and family. Probation officers should expect that the family will be protective of the very information needed to make an accurate assessment. In some cases families may become hostile. The key here is to focus on the issue that has brought the minor before the court. The client and family need to understand that the court needs to make as accurate a judgment as possible. The more information the court has the better it is able to do this.



THE SOCIAL HISTORY INVESTIGATION

The purpose of the social history investigation is to compile information regarding all areas of the minor's life including school, family, psychological and psychiatric treatment, and health issues. This information is vital to formulate an appropriate case plan for the minor. In the case plan the probation officer is trying to establish what he/she believes will work best with the client. The case plan should list the specifics of the types of interventions the probation officer believes will work best for the client and family. Examples include the following:

- 1.) Probation;
- 2.) Counseling individual or/and family;
- 3.) Community service;
- 4.) Restitution;
- 5.) School placement; and
- 6.) Employment.

The first meeting with a family is an ideal opportunity to not only explain the court process and answer questions but to gather this necessary information. Also, it is often helpful to ask the family to provide documentation in the form of the minor's birth certificate, social security card, health insurance card, and last report card.



The Social History Investigation (continued)

I: Family

A list of the minor's siblings and pertinent information regarding mother and father such as employment status, military experience, and police contact are necessary. Also, marital information and mother's maiden name can be helpful for future reference.

II: School

Where the minor attends school, grade attending/last completed, disciplinary problems, extracurricular activities, and special education certification are all important.

III: Psychological/Psychiatric Treatment

A list of any therapists the minor has seen, prescribed medications, diagnoses, and mental health hospitalizations are important to get a picture of any special needs the minor may have and to provide insight into any mental health factors regarding the child.

IV: Health

Important are the type of medical insurance covering the minor, name of their primary care physician, known medical problems, any head injuries, and known allergies. These can become significant should the child ever be removed from the home.



The Social History Investigation (continued)

V: Substance Abuse

With regards to this section, it is important to stress to the minor that this information will not be used against them but merely to formulate any future case plan. Questions regarding the age at which the minor first used marijuana/alcohol/other, date of last use of marijuana/alcohol/other, and frequency of use are valuable.

VI: Miscellaneous

Other areas of importance are history of fire-setting (arson), physical abuse (victim/offender), sexual abuse (victim/offender), gang involvement, suicidal ideation/attempts, and runaways. Also, prior court involvement and previous out-of-home placements are pertinent. The probation officer should also get some idea of the family's strengths, and the youth's strengths, as a foundation for building upon.

During the social history investigation, it is important to ask the parent/guardian to sign a release of information so that all information given can be verified. A sample information release form as well as an example of a delinquency work sheet appear in the "sample worksheet" section of Chapter 14.



NONVERBAL DECEPTION INDICATORS

Nonverbal communication is the way the subconscious mind speaks. No matter how much someone tries to control it, nonverbal behaviors give clues to true feelings. Knowing some of the cues can assist you in two important ways: 1. Help you spot someone who is not telling the complete truth; and 2. Help you learn body language cues that establish or undermine someone's credibility.

The Long Pause: Deceivers use longer pauses, shorter answers and longer times between a question and a response than someone who is merely nervous. This makes sense, because it takes longer to create a lie than to recall the truth. If you ask a juvenile whether (s)he has been drug free—assuming it is a condition of probation—and there's a long pause before his/her response, it might be an indication of deceit. However, this is not a cue you should take in isolation. Also, watch the interviewee's eyes immediately after you ask the question. People tend to look up the right to visualize or create a new response, or down to the right to create the sounds of a new response. We recall information that occurred in the past by looking up to the left, or down to the left. Spot a deceiver by listening for pauses and right eye movement.



Nonverbal Deception Indicators (continued)

Excessive Gesturing and Adaptors: When people deceive spontaneously, they tend to spend more time gesturing with hands and using adaptors (such as scratching the body or playing with a pen) than someone who is just nervous. If, during an interview question, the interviewee starts playing with a pen/pencil, scratching, etc, (s)he may be subconsciously saying something else. On the other hand, someone who has practiced their deceit ahead of time will try to control gestures. Spot a deceiver by excessive gesturing.

Mouth, Lips, and Tongue Cues: Pursed lips may be a sign of extreme anxiety, withholding information, or aggressions. Tight lips indicate the interviewee may be planning to hold the truth inside them. When someone is nervous, the mouth becomes dry and they may be licking their lips and swallowing hard to find the right words to say. To spot a deceiver, look for unusual movement of the mouth, lips, or tongue.

Lack of Animation: Practiced deceivers usually keep as still as possible. Being overly controlled can work against the interviewee. If you know that the person you are interviewing is normally animated, and their interview with you is stiff or controlled, they might be practicing deception.



Nonverbal Deception Indicators (continued)

Hiding Hands: Deceivers tend to keep their hands hidden and still. They stick them in their pockets, clench them together, or hold them behind their back. Imagine, as you are interviewing, that the other person is holding the truth in the palm of their hands, and see if (s)he shows them to you. One researcher has determined that the single most important factor in the handshake is palm-to-palm contact, and that if people don't get that contact, they wonder what the other person is hiding, and they are uncomfortable with the rest of the interaction. P. Wood, *Understanding Deception and Credibility Cues*, p.3, 2002.

Closed Curtains: There are "windows" at the bottom of the feet, the kneecaps, the bottom of the torso, the middle of the chest, the neck, the mouth, the eyes, and the top of the head. Deceivers tend to close entrances to hide the truth. They cover them with clothes, turn the body away from the person they are talking to, put objects or furniture between themselves and others, and most simply, by folding their arms. For instance, if someone has their face turned toward you, but their body turned away, their windows are closed.

Withdrawn Behavior: Deceivers don't usually feel very comfortable and so they tend to hold back and be less friendly. While it is quite usual for a probationer to be unfriendly toward their probation officer/caseworker, if they are unusually unfriendly, this may be a cue that they are deceiving.



Nonverbal Deception Indicators (continued)

Excessive Confidence: If the interviewee's sound or pitch (their *paralanguage* which includes voice, tone, volume and speaking rate) seems out of the norm, they may be practicing deception. Spot a deceiver by your "gut reaction". Your instinctual, subconscious read of the situation is usually accurate.

Nonverbal Behavior and Spoken Words Don't Match: Look for the alignment of the circumstances with the demeanor of the person you are talking to. If, for example, someone is saying they are upset or embarrassed, but are extremely calm and become indignant, or if they say nothing is wrong, and their arms are tightly wrapped around their body, they are probably practicing deception.

The Smile: A smile is the most common facial expression for masking emotions. It is often used to hide displeasure or anger. A genuine smile changes the entire face: The eyes light up, the forehead wrinkles, the eyebrows and cheek muscles rise, skin around the eyes and mouth crinkles, and the mouth turns up. In a masking smile, however, nothing moves but the corner of the mouth, and that often turns down.



Nonverbal Deception Indicators (continued)

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REPORT WRITING

The purpose of report writing is to provide the court with an accurate record of the interactions that occur between court agents and court clients. It is designed to inform the court of all the relevant information it needs to make a decision regarding what role it will play in the life of a young man or young woman. In short, the system of reports is a narrative that chronicles the time frame between a youth's entry into the system and his/her exit from the system. Every young man/woman who comes into the system has a file. That file may begin with a person as young as eight or nine years old and end with a person as old as 20 or 21. It may be reviewed by numerous hearing officials (i.e. judges and referees), throughout the time in which the court has jurisdiction.

All reports must be well written and done in a professional manner. These reports contain critical information that allows the court to make important decisions with respect to placement of an individual throughout their involvement with the court. The nature of these reports may vary pending on the jurisdiction; however, there are some basic requirements.

Throughout the course of this section we will examine various report types, and we will examine the specifics of their several different types of reports.



Social History, Predisposition Report, or a Report of Investigation

In preparation for the dispositional hearing, the juvenile probation officer conducts the interview process with the juvenile and his or her family. The background information gathered is sometimes referred to as a social history, predisposition report or a report of investigation. The report of investigation is the first report in what may be a lengthy sequence of reports, depending on the juvenile's progress while on probation. That written report with recommendations is submitted to the court at the dispositional hearing for the court's consideration. Juvenile probation officers must develop a detailed understanding of the juvenile, determine the impact of the alleged offense on the victim(s), and prepare and assess available options in regards to programs. Prior to going to disposition, it may be necessary to gather information from court psychological evaluations, or other agencies that may have previously worked with the family. At the dispositional hearing, the report of investigation is presented to the judge. Any statements made in the report of investigation may be repeated by a defense attorney, prosecutor, or the judge in open court. Do not put something in a report that you do not want the parents to hear.



Social History, Predisposition Report, or a Report of Investigation (continued)

The greatest attention should be given to the closing summary of the report. It is in this section that the probation officer justifies his/her position in contested matters. It should be assumed that the various members of the courtroom workgroup (i.e. judge, probation officer, referees, caseworkers, attorneys) will carefully scrutinize these recommendations. It is important to develop a reasonable set of recommendations or goals. These recommendations or goals must offer the client a fair opportunity to succeed. Some probation officers will state a specific set of recommendations. Others may choose to list specific goals and objectives. In the latter case, the objectives serve as a road map to attaining the goals.

Reports should tell a story in a short and concise format. Probation officers should seek to get the maximum information while not writing a dissertation. Lastly, reports should be proofread for grammatical errors. As stated earlier, the report becomes part of the court record. It will have the probation officer's name on it. This requires that professional care be taken. The reports must also be done within the established time lines of a given court.



Dispositional Summaries

If while on probation the juvenile commits another offense, then a dispositional summary is prepared (not a second report of investigation.) The dispositional summary will bring the court up-to-date as to what has occurred in this case since the previous hearing. After each ensuing violation of probation or additional charges, dispositional summaries would again be completed.

The Dispositional Summary should contain the following:

- 1. Caseworker's evaluation (problem/progress, adherence to probation rules, general case update);
- 2. Victim statement (if necessary);
- 3. Recommendation and support;
- 4. Case plan;
- 5. Updated goals and objectives; and
- 6. Additions or modifications to treatment plan.

Note: This format may also be used in the event that the minor is brought before the court for subsequent probation violations or a new criminal complaint.



Quarterly Reports

Quarterly reports are designed to update the court on the minors' progress. What the court needs to know is what has happened with the minor since the last hearing. It should include a case update, case goals, case plan, problems identified, and client contacts. Quarterly reports are not usually prepared with a court hearing in mind.

Supplemental Reports

The supplemental report can serve a variety of functions. Most often it is used as an addendum to other reports. The purpose of the supplemental reports is to provide the court with updated information that may have come to the probation officers knowledge after a quarterly, rehearing, or a review hearing report has been completed. Supplemental reports include the following:

- 1. Matter before the court:
- 2. Case update (additional or new information brought to the court's attention);
- 3. Recommendations (changed or left the same);
- 4. Support (for changed recommendation).



Specialized Reports

Designation Reports

Designation or institutional reports fall into the category of specialized reports. The reason for this is that courts want the report to contain specific criteria. These specific criteria are needed because the court faces the possibility of sanctioning a minor, which may involve placing in an institution or in extreme cases, placement in an adult facility.

There are two types of designation reports. One is for a court-designated case where a judicial official has to decide on designation as an option. The second is a designation case involving a specified offense where no designation hearing is needed.



Designation Hearing Report

Juveniles can be designated for any felony and even misdemeanors, but unless they are being designated for a specified offense they are entitled to a designations hearing. The designation hearing is similar to phase II of a traditional waiver hearing. The court must determine whether or not the juvenile is designated and the caseworkers report must address the waited issues set forth in the court rule MCR 5.952.

- 1.) Seriousness of the offense;
- 2.) The culpability of the juvenile in committing the offense;
- 3.) Juveniles record of delinquency;
- 4.) Juveniles programming/placement history; and
- 5.) The adequacy of punishment or programming available in the juvenile system.

In the shorter version of the designation report the following elements should be present:

- 1.) Matter before the court;
- 2.) Case update;
- 3.) Dispositional options available for the juvenile; and
- 4.) Recommendations.



Sentencing Hearing Report

The designation case involving a specified offense requires a longer format. It is based on criteria specified in section MCL 712A.2d(2) and MCR 5.952.

- A. Matter before the court;
- B. Case update;
- C. Disposition of options available for a juvenile (this section should represent the possible dispositions available for the juvenile in the juvenile system.--i.e. probation, day treatment, ACT 150, etc.);
- D. Recommendations: This section should contain the following:
 - 1. The minor stay in the juvenile system (specify what services or placement options are available);
 - 2. Should the court delay disposition of the adult sentence (specify the adult sentence the minor is facing if imposed); and
 - 3. Should the court impose the adult sentence (specify the adult sentence based on the presentence report).

The recommendation should be followed with the rationale outlining what has worked or failed in the past based on prior history. Distinctions must be made as to whether it was a court-designated case or a prosecutor designated case.



Institutional Placement Reports

Institutional reports require that the probation officer outline why he/she believes a juvenile should be placed in an institutional placement. The structure of the report should follow the format of the supplemental report with certain modifications. Depending on a court's requirements this may vary from county to county. The following information should be included:

- A. Matter before the court;
- B. Case update;
- C. Prior history;
- D. Results of previous interventions;
- E. Screening committee recommendation (some counties require an administrative screening team examine all cases where a probation officer may be recommending out of home placement);
- **F**. Institutional options available;
- G. Recommendations;
- H. Support for recommendations; and
- I. Recommendations for out-of-state facility (in this case, the probation officer must justify his/her recommendations for an out-of-state placement. A case has to be made that there are no equivalent in-state placements for the court or family independence agency to consider such a request).



Waiver Reports

Waiver reports represent another specialized category of reports. Waiver involves the court and/or the prosecuting attorneys effort to hold a young man/woman accountable as an adult for their actions. There are two types of waivers which the court may perform.

Automatic Waiver

The prosecuting attorney has sole discretion over whether a qualified minor will be tried as an adult. In automatic waiver, a minor has to be 14 years old and have committed a serious offense. In automatic waivers, probation officers do not have a report writing responsibility. Once the prosecuting attorney exercises his/her decision to waive the case, it is immediately transferred to adult court.

Traditional Waiver

Consists of two phases:

Phase 1: A probable cause hearing; and

Phase 2: The courts determination as to whether a minor can be treated in the juvenile system.



Traditional Waiver (continued)

<u>Phase 1:</u> The court, in this phase, is seeking to establish probable cause for the waiver. Often times probable cause will be stipulated to by the minor's attorney. In the event that this is not the case, the court will make a determination as to the application for waiver. If the court denies that there is probable cause the proceedings will end. NO report is needed at this time. If the court finds probable cause then a Phase 2 hearing date will be set.

Phase 2: Criteria for Waiver

It is during Phase 2 of the traditional waiver process the court must make the critical determination as to whether a minor can remain in the juvenile system or be tried as an adult in the adult system. The probation officer has a major responsibility to provide the court with all of the information it needs to make such a decision. The probation officer, in addition to preparing a report, must also testify under oath about the contents of this report. As with the designation reports, the specifics may vary from court to court, however, important elements must be present. They include the following:

- A. Prior record and character of child (their physical and mental maturity as well as pattern of living);
- B. Seriousness of offense;



Traditional Waiver (continued)

Phase 2: Criteria for Waiver (continued)

- C. Pattern of offenses (if the offense is part of a repetitious pattern of offenses, which would lead to the determination that the child may be beyond rehabilitation under the regular statutory family court procedures);
- D. The relative suitability of programs and facilities available to the juvenile and the court for the child in the juvenile system and the adult system; and
- E. Whether the best interest of the public welfare and the protection of the public security generally require the juvenile to stand trial as an adult.

Because Phase 2 represents a critical stage, the probation officer must be thorough in his/her examination of the criteria. The court gives the probation officer a wide scope with which to conduct their investigation. This may include interviews with all relevant individuals in the child's life. The probation officer may interview family members, school officials, classmates, codefendants, detention staff, victims, as well as provide the court with reports from other agencies that have dealt with the minor. The purpose of this is to provide the court with as accurate a portrait of the individual as possible. The understanding here is that the court will be deciding whether or not an individual will be tried in the adult system or remain in the family division of the circuit court. The probation officer must make a recommendation to the court as to what they believe should occur.



Closing/Dismissal Summary Report

Perhaps the most looked forward to report ever submitted by a juvenile probation officer is the dismissal summary. More times than not, dismissal summaries mean that success has occurred and that the juvenile is ready to be without probationary orders. There are two basic forms of dismissal: 1.) A dismissal for maximum benefits or 2.) A dismissal for completion of all terms of probation.

The dismissal for maximum benefits usually implies that all programs have been tried and limited success has been achieved. The successful completion of probationary orders lets all the parties know that the juvenile has complied with every demand made on him or her by the court. It is important for the juvenile probation officer to understand that holding onto cases until everything is perfect will more than likely result in a caseload that is so large that it becomes unmanageable.

If the juvenile completes a period of probation, then a dispositional review is held. These reviews are usually held by supervisors/referees and not judges. In some courts, judges do hold most of their own reviews.



Closing/Dismissal Summary Report (continued)

In preparing a review summary, the emphasis is on what conditions of probation have been adhered to and what progress or lack of progress has been made during the time that the juvenile has been on probation. In delinquency cases, the standard period of time for conducting reviews is every six months. (In neglect and abuse or child welfare proceedings the time frame may be as short as every 30, 60, or 90 days). In a review, much like a Dispositional Hearing, testimony is usually given by the assigned juvenile probation officer. That testimony is based on a report which is submitted to the court prior to the particular hearing. As in most court hearings, copies of reports can be given to the parent and the juvenile. Once again, it is very important that the juvenile probation officer is honest with the parents and the juvenile as to what recommendations are being made and as to what was said by the juvenile probation officer in the report that is presented to the court.



COMMONALITIES OF ALL REPORTS

Several common points for report preparation:

- A. Set time frames that include months, day, date as to when certain requirements or probationary orders are to be completed by.
- B. Be specific as to when an event occurs. Don't say in your report this past summer or during the school year, be specific, stating month, date if possible, even time of day, if possible.
- C. Set realistic goals for the juvenile. Perhaps it is unreasonable to consider that a juvenile can complete 200 hours of community service work. Don't give a 13 year old six months to pay \$1,000 in restitution.
- D. Try not to impart your values on the clients you work with. An example of a juvenile probation officer speaking to a juvenile who is skipping school, that worker was overheard to say, "You will never amount to anything if you don't complete high school." That statement was made in front of a parent who did not have a high school diploma.
- E. Be honest with the parents and the juvenile as to what recommendations are being made and as to what was said by the juvenile probation officer in the report that is presented to the court.
- F. Reports should tell a story in as few words as possible. Stick with the "who, what, and when" concept.
- G. Your next report should pick up where your last one left off. Reports will be read by other agencies, psychologists and workers long after you have left the court. Attorneys don't know any history other than what clients have told them. Your report is very important.
- H. Greatest attention should be given to the closing summary of your report. Justification of your position, in contested matters, will be carefully scrutinized by lawyers.



Conclusion

In this section, we have discussed the importance of report writing. We have examined the various types of reports that courts require. It should be noted that these reports and their criteria might differ from court to court. What is consistent is the emphasis that the probation officer must place on the importance of each report that he/she writes. These reports must be fair and accurate. The material contained in them becomes part of the record. The probation officer must at all times be prepared to testify about statements contained in the report. These reports must be done in a timely and

professional manner. In doing so, the probation officer ensures that the record of a minor meets all the criteria that a given court requires. Hopefully, the information provided here is applicable to all courts. It is important to note that report writing is an

ongoing process. It will be repeated many times during a probation officer's career. The more comfortable and familiar you become with the process, the better your reports will be. The key is to understand your case and be prepared.



TESTIFYING IN COURT

Perhaps the most nerve wracking part of being a juvenile probation officer is the moment that the worker is called to the stand in the presence of the judge, the prosecuting attorney and perhaps several defense attorneys. The juvenile probation officer will be better prepared for that moment if they follow several basic concepts.

Be Prepared

In your preparation it is always important that you have gone over your report and that you are completely confident in your recommendations. It is important that you have prepared prior to going to court. Taking several minutes prior to court to speak with the parents and to speak with the juvenile in regards to your recommendations will be well worth it if you are aware of any concerns or objections that they have prior to getting on the stand.

Tell the Truth

Always, only, and forever. There would be no worse feeling for a juvenile probation officer than to be on the stand in front of the judge that they work for and to be caught in a lie or to give untruthful testimony. Do not hesitate to correct mistakes. If you have said something that you realize the moment it has come out of your mouth is not completely accurate, make sure that you correct that mistake. Do not look to any attorney or judge for guidance in making any answer. If you don't know the answer, just say you don't know the answer. Answer the questions fully and completely and then stop your response.



Testifying in Court (continued)

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Look Professional

Prior to going to court it is important that the worker be professional. Dress neatly, modestly, even conservatively.

Speak Clearly

Speak clearly, distinctly, and with conviction. Look at the person who is asking you the question. Do not exaggerate. Do not put on false airs. Speak plainly, directly, and with sincerity. It is important that the juvenile probation officer not become argumentative, abrasive, or hostile to any attorneys that may be questioning your recommendations.

Be Calm

Remain calm and composed. Try and relax. A good defense attorney will be able to tell if they are rattling you. Do not avoid questions, know the answer. Do not ramble.

